

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JOSE DAVID VALDEZ BALDENEGRO,

Plaintiff,

1:11-cv-3038-CL

v.

ORDER

MICHAEL NAYLOR; DAN CONVERSE;
JOE FERGUSON; and JACKSON
COUNTY JUVENILE SERVICES,

Defendants,

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation (#36) and the matter is now before me. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Defendants filed objections and I have reviewed the file of this case *de novo*. 28 U.S.C. § 636(b)(1)(c); McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). I find no error and adopt the report (#36).

Success on plaintiff's claims would not "necessarily imply the invalidity of his conviction or sentence[.]" See Heck v. Humphrey, 512 U.S. 477, 487 (1994). Plaintiff's sentence included a term of probation "not to exceed 5 years" as stated in the November 21, 2002 Order of Commitment to the Department of Human Services. The May 1, 2009 Order stating plaintiff's "probation is hereby terminated" was not plaintiff's conviction or sentence. Heck v. Humphrey does not bar plaintiff's claims.

I adopt the Report and Recommendation (#36). Defendants' Motion to Dismiss (#32) is DENIED.

IT IS SO ORDERED.

DATED this 21 day of June, 2012.

A handwritten signature in black ink, reading "Owen M. Panner", written over a horizontal line.

OWEN M. PANNER
U.S. DISTRICT JUDGE